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10/721,406	11/24/2003	Martti Y.O. Kangas	11240	8038

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RODGERS & RODGERS
880 NORTH Island Drive
Atlanta, GA 30327

EXAMINER

HALPERN, MARK

ART UNIT	PAPER NUMBER
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1731

DATE MAILED: 04/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/721,406

Applicant(s)

KANGAS ET AL.

Examiner

Mark Halpern

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Specification

- 1) Cross reference to related application is not recited on page 1 of the Specification.

Claim Objections

- 2) Claim 1 recites "Apparatus and method". An apparatus and a method are not permitted in one claim. In view that all the claims recite an apparatus, it is recommended claim 1 be amended to recite "An apparatus". A method claim must be recited separately.
- 3) It is recommended that the independent claim 1 start with –An apparatus- in place of "Apparatus", and the dependent claims 2-9, start with –The apparatus- in place of "Apparatus".

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

- 4) Claims 1-9, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-9, are not clear as to what apparatus structural aspects are claimed. The claims appear to recite functional method aspects. The applicants in Specification, pg. 3, recite "An object of the invention is to provide a process...". Clarification is required.

Claim 1, line 7, the phrase "can control" renders the claim indefinite.

Claim 1 recites the limitation "the wall" in line 8. There is insufficient antecedent basis for this limitation in the claim.

Claim 3, line 2, the phrase "such equipment" renders the claim indefinite.

Claim 3, line 5, the phrase "such backing devices" renders the claim indefinite.

Claim 4, line 1, the phrase "where 40 to 80 degrees C spray environment is used for sizing chemicals" is not clear.

Claim 5, line 1, the phrase "can be used" renders the claim indefinite.

Claim 8 recites the limitation "the moist air" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 9, line 2, the phrase "can include" renders the claim indefinite.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5) Claims 1-9, are rejected under 35 U.S.C. 103(a) as being unpatentable over Shortridge (DE 24 45 602). Shortridge discloses a spray device. In the device a conveyor belt 3 runs on rollers 2 and travels under a spray section. The spray section includes an endless cable 26, to which a number of carriages, each with a spray nozzle 28, is clamped, runs on pulleys 18 and 25 in a cross direction over the entire width of the belt. The spray nozzles are arranged at a distance from each other and are movable along a rail by means of an induction motor arrangement. Each spray nozzle 28 is supplied from a central supply point 33 via flexible line 34. The spray nozzles are driven along a rail with a speed adjusted to the speed of the conveyor belt. Flat objects to be sprayed, such as leather, are placed on the conveyor belt. The spraying occurs perpendicular to the motion of the conveyor (Shortridge, pgs. 3-6, of prior art translation from German, copy provided). Shortridge fails to disclose that the apparatus comprises a paper making machine, however, it would have been obvious, to one skilled in the art at the time the invention was made, that since the device is used to spray flat objects such as leather, the device would be equally applicable to spray paper webs placed on the conveyor, without any structural modification to the device of Shortridge.

6) Claims 1-9, are rejected under 35 U.S.C. 103(a) as being unpatentable over Zapp (GB 835,670). Zapp discloses an apparatus for spraying flat sheets, such as leather, metal or the like (pg. 1, lines 52-56). The apparatus includes a revolving ring to which spray guns and guiding photoelectric cells are attached. The rotating ring revolves about the pivot 3 in the direction indicated by the arrow. The four spray guns 6, equally distanced from each other, spray the object placed on the moving conveyor belt 1,

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covering the spray area over the entire width of the belt (pg. 1, line 57 to pg. 3, line 94, and Figures 1-2). Zapp does not disclose the liquid being sprayed, however, the present claims are apparatus claims. Zapp fails to disclose that the apparatus comprises a paper making machine, however, it would have been obvious, to one skilled in the art at the time the invention was made, that since the device is used to spray flat objects such as leather or metal, the device would be equally applicable to spray paper webs placed on the conveyor, without any structural modification to the device of Zapp.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7) Claims 1-9, are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-8, of U.S. Patent No. 6,866,207.

Although the conflicting claims are not identical, they are not patentably distinct from

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each other because the present invention discloses a spray nozzle assembly for spraying chemicals in a papermaking apparatus.

Conclusion

8) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Halpern whose telephone number is 571-272-1190. The examiner can normally be reached on Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on 571-272-1189. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mark Halpern
Primary Examiner
Art Unit 1731